

## REMARKS

### I. Introduction

Claims 18 to 35 are pending in the present application. In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

Applicants thank the Examiner for considering the previously filed Information Disclosure Statement, PTO-1449 paper and cited references.

### II. Objection to the Drawings

As regards the objection to the drawings, Figure 1 has been amended without prejudice to extend the reference line associated with reference numeral 33 to indicate the removal opening feature. No new matter has been added. In view of the foregoing, withdrawal of this objection is respectfully requested.

### III. Objection to the Specification

The Specification was objected to with regard to reference numerals 33 and 39 referring to the removal opening at page 9, lines 12 and 16. In this regard, the Specification has been amended without prejudice to replace "39" with --33--. The Specification has been further amended to replace the reference numeral "14" with --4-- at page 10, line 28. No new matter has been added. In view of the foregoing, withdrawal of this objection is respectfully requested.

### IV. Rejection of Claims 18 to 35 Under 35 U.S.C. § 112

As regards the rejection of claims 18 to 35 under 35 U.S.C. § 112, second paragraph, it is respectfully submitted that the present claims sufficiently "set forth and circumscribe a particular subject matter with a reasonable degree of clarity and precision," which is all that is required under 35 U.S.C. § 112, second paragraph. Indeed, the Office Action's apparent reference to Figures makes plain that the definiteness of the claims is not properly addressed. Withdrawal of this rejection is respectfully requested.

V. **Rejection of Claims 18, 20, and 30 Under 35 U.S.C. § 102(b)**

Claims 18, 20, and 30 were rejected under 35 U.S.C. § 102(b) as anticipated by either of U.S. Patent No. 5,485,746 ("Mori et al.") and U.S. Patent No. 4,457,169 ("Lauterbach et al."). It is respectfully submitted that neither of Mori et al. and Lauterbach et al. anticipate these claims for at least the following reasons.

Claim 18 relates to a device for determining at least one parameter of a medium flowing in a main flow direction in a line for determining the air mass flow rate in the intake manifold of an internal combustion engine. Claim 18 provides for an inlet area having a removal opening that opens into the line through-channel at at least one of the sidewalls of the bypass part. This feature, along with the channel geometry in the inlet structure, allows liquid and solid particles to flow back into the through-channel rather than pass into the measuring channel. Claim 18 further provides for a flow diversion element having a diversion surface with ends that are aligned with the sidewalls of a bypass part. This alignment is illustrated, for example, at Figure 3.

Mori et al., relating to a hot-wire type airflow meter, disclose, referring to Figures 1 and 2, a smoothing flow core 12. The airflow enters the central flow portion member 14 by passing through the gap between the inner surface of the outer wall of the central flow portion member and the outer surface of the smoothing flow core. The flow then changes directions and travels along the inside wall of the smoothing flow core before again changing directions to enter the straight-tube portion 183, which contains a bridge circuit for metering. The airflow is then re-introduced to the through-flow by exiting the flow portion member 14 at gap 20 between the flow portion member and the downstream core 16. In this regard, all of the airflow that enters the flow portion member passes over the bridge circuit and then exits in the same manner. As such, Mori et al. do not disclose, or even suggest, an inlet area having a removal opening that opens into the line through-channel at at least one of the sidewalls of the bypass part.

Moreover, referring to Figure 1, it is clear that the downstream ends of the outer surface of smoothing flow core 12 do not align with any sidewalls. As such, Mori et al. do not disclose, or even suggest, a flow diversion element having a diversion surface with ends that are aligned with the sidewalls of a bypass part.

Since Mori et al. do not disclose, or even suggest, all of the features recited in claim 18, it is respectfully submitted that Mori et al. do not anticipate claim 18.

Claims 19 to 35 ultimately depend from claim 18 and therefore include all of the features recited in claim 18. It is therefore respectfully submitted that Mori et al. do not anticipate these dependent claims for at least the reasons set forth above in support of the patentability of claim 18.

Lauterbach et al., relating to an apparatus for measuring the mass of a flowing medium, disclose, referring to Figure 2, a deflecting body 21 is disposed upstream of a gap 18 in a body 19. In this regard, the medium flows around the deflecting body and enters the body through gaps 23. After being measured, the flow is re-introduced to the through-flow by exiting the body at its downstream opening at end 27. In this regard, all of the flow that enters the body passes over the metering device and then exits at end 27. As such, Lauterbach et al. do not disclose, or even suggest, an inlet area having a removal opening that opens into the line through-channel at at least one of the sidewalls of the bypass part.

Furthermore, the outer surface of the deflecting body is tear-drop shaped, with the downstream ends converging at a point. As such, Lauterbach et al. do not disclose, or even suggest, a flow diversion element having a diversion surface with ends that are aligned with the sidewalls of a bypass part.

Since Lauterbach et al. do not disclose, or even suggest, all of the features recited in claim 18, it is respectfully submitted that Lauterbach et al. do not anticipate claim 18.

Claims 19 to 35 ultimately depend from claim 18 and therefore include all of the features recited in claim 18. It is therefore respectfully submitted that Lauterbach et al. do not anticipate these dependent claims for at least the reasons set forth above in support of the patentability of claim 18.

## **VI. Rejection of Claims 19, 21 to 29, and 31 to 35 Under 35 U.S.C. § 103(a)**

Claims 19, 21 to 29, and 31 to 35 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 6,401,531 ("Tank et al.") and either of Mori et al. and Lauterbach et al. It is respectfully submitted that the combination of Tank et al. and either of Mori et al. and Lauterbach et al. does not render unpatentable these dependent claims for at least the following reasons.

Claims 19, 21 to 29, and 31 to 35 ultimately depend from claim 18 and therefore include all of the features included in claim 18. As more fully set forth above, neither of Mori et al. and Lauderbach et al. disclose, or even suggest, all of the features recited in claim 18. Tank et al. are not relied upon for disclosing or suggesting the features of claim 18 not disclosed or suggested by Mori et al. and Lauderbach et al. Indeed, Tank et al. do not disclose, or even suggest, the features of claim 18 not disclosed or suggested by Mori et al. and Lauderbach et al.

In view of all of the foregoing, it is respectfully submitted that the combination of Tank et al. and either of Mori et al. and Lauterbach et al. does not disclose, or even suggest, all of the features of the present claims. As such, it is respectfully submitted that the combination of Tank et al. and either of Mori et al. and Lauterbach et al. does not render unpatentable the present claims. Accordingly, withdrawal of the present rejection is respectfully requested.

#### **VII. Double Patenting Rejection of Claim 18**

Claim 18 was rejected on the grounds of non-statutory double patenting. In this regard, a Terminal Disclaimer is filed herewith, thereby obviating this rejection. Withdrawal of this rejection is therefore respectfully requested.

#### **VIII. Conclusion**

It is therefore respectfully submitted that all of the presently pending claims are allowable. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Date: 6/27/07

By:



Gerard A. Messina  
Reg. No. 35,952

KENYON & KENYON LLP  
One Broadway  
New York, New York 10004  
(212) 425-7200  
**CUSTOMER NO. 26646**